

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Casmalia Community Services District,

Complainant,

vs.

Unocal Corporation, also known as Casmite
Water System,

Defendant.

Case 03-09-001
(Filed September 2, 2003)

In the Matter of the Application of The Casmite
Corporation for a Certificate of Public
Convenience and Necessity to Operate a Public
Utility Water System Near Casmalia in the
County of Santa Barbara and to Establish Rates
for Service.

Application 03-12-024
(Filed December 22, 2003)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER
AND ADMINISTRATIVE LAW JUDGE**

This proceeding is the consolidation of two cases filed with the Commission. The first proceeding, Case (C.) 03-09-001 was commenced on September 2, 2003. The complainant, Casmalia Community Services District, alleged that Unocal Corporation, also known as Casmite Water System and The Casmite Corporation, the defendant, should be declared a public utility, prevented from raising current water rates, and prevented from terminating water service. The Prehearing Conference (PHC) in C.03-09-001 was commenced

on November 25, 2003, and after initial discussions, was recessed pending the filing by defendant of an application for a Certificate of Public Convenience and Necessity (CPCN) for the Casmite Water System. The application has now been filed and assigned proceeding number Application (A.) 03-12-024. The Water Division of the Commission has protested the application.

The PHC in C.03-09-001 was resumed and the initial PHC in A.03-12-024 was held in a joint PHC conducted on February 17, 2004, at which time the two proceedings were consolidated.

This ruling determines the scope, schedule, necessity of a hearing, and other matters in accordance with Rules 6(a) and 6.3 of the Commission's Rules of Practice and Procedure (May 2003) (Rules).¹

1. Parties to Proceeding

In C.03-09-001, the complainant is Casmalia Community Services District. The defendant is Unocal Corporation, also known as Casmite Water System and The Casmite Corporation. In A.03-12-024, the applicant is The Casmite Corporation (Casmite) and the Water Division of the Commission is the protestant. All these entities are parties and shall comply with the requirements of this ruling.

2. Assigned Commissioner; Principal Hearing Officer

Geoffrey F. Brown is the Assigned Commissioner. Pursuant to Pub. Util. Code § 1701.3, Administrative Law Judge (ALJ) John E. Thorson is designated as the principal hearing officer in this proceeding.

¹ The Commission's Rules are available on the Commission's website: www.cpuc.ca.gov/PUBLISHED/RULES_PRAC_PROC/8508.htm.

3. Categorization and Need for Hearing

This ruling confirms the Commission's preliminary categorization in ALJ 176-3126 (January 8, 2004) of this proceeding as ratesetting. While this consolidated proceeding includes a complaint, C.03-09-001, almost all issues pertain to ratesetting, and the 18-month schedule for ratesetting should apply. This ruling also confirms that evidentiary hearings are necessary as factual issues are in dispute. This ruling, only as to categorization, is appealable under the provisions of Rule 6.4.

4. *Ex Parte* Communications

Since this is a ratesetting proceeding, *ex parte* communications with the Assigned Commissioner, other Commissioners, and the ALJ are generally prohibited. The limited exceptions to this prohibition are described at Pub. Util. Code § 1701.3(c) and Rule 7.

5. Scope of the Proceeding

The residents of the Casmalia Community Services District, located near Vandenberg Air Force Base, receive water from the Casmite Water System. Casmite does not hold a CPCN issued by the Commission. The Casmalia Community Services District filed a complaint seeking to have Casmite declared a public utility, to prevent an increase in water rates, and to prevent the discontinuance of service. In response to the complaint, Casmite agreed to file an application with the Commission for the issuance of a CPCN. Casmite, however, objected to the naming of Unocal Corporation as a defendant in the original proceeding. The application for a CPCN was filed, and the Commission's Water Division has protested it.

Both cases having been consolidated, this proceeding now addresses the issues raised by the initial complaint, the application for a CPCN, and the pleadings filed in response to the complaint and application.

6. Specific Issues to Be Addressed

The specific factual and legal issues to be decided in this consolidated proceeding are as follows: (1) whether the Commission should grant Casmite a CPCN to operate a public utility water system near the town of Casmite; (2) whether the Commission should authorize Casmite to adopt the proposed rates; (3) whether Casmite has the necessary experience and expertise to operate and maintain the water system; (4) whether the issuance of a CPCN to Casmite would be in the public interest; (5) whether Casmite's proposed rates will be reasonable; (6) whether Casmite has the ability and financial resources to manage and operate the proposed water system; (7) whether Casmite's application for a CPCN meets the Commission's certification criteria for small water utilities as set forth in Resolution M-4708 (August 28, 1979); (8) whether, if Casmite has impermissibly operated as a public utility, any sanctions should be imposed against Casmite and in what amount; and (9) whether Unocal Corporation is properly named as a party in this proceeding.

7. Schedule

The schedule for this proceeding follows.

Event	Date
Water Division Report & CCSD Report	May 14, 2004
Casmite Rebuttal Report	May 28, 2004
End of Discovery	May 28, 2004
Mediation and Settlement Efforts	June 1-11, 2004
Final PHC/Marking of Exhibits	June 16, 2004 10 a.m.-12 noon
Evidentiary Hearing	June 21-25, 2004 9 a.m.-12 noon, & 1:30-3 p.m., each day
Opening Briefs (simultaneous)	July 26, 2004
Response Briefs (simultaneous) & Submittal	August 9, 2004
Proposed Decision	November 8, 2004
Final Decision	January 6, 2005 (December 16, 2004, is last scheduled 2004 Commission meeting)

The ALJ and the parties will endeavor to schedule a public participation hearing or another public participation opportunity for the residents of the Casmalia Community Services District. If it is held, this event will be scheduled before or during the evidentiary hearing.

8. Discovery

Discovery will be conducted according to the Rules. If the parties have discovery disputes they are unable to resolve by meeting and conferring, they shall raise these disputes under the Commission's Law and Motion procedure. (*See* Resolution ALJ-164 (September 16, 1992).)

9. Service Lists/Filing and Service of Documents

The official service list for this proceeding is attached to this ruling. The parties shall notify the Commission's Process Office of any address, telephone or electronic mail (e-mail) change to the service list. The updated service list is available on the Commission's Web page maintained for this proceeding: www.cpuc.ca.gov/published/proceedings/C0309001.htm.

The parties have agreed to distribute all pleadings and testimony in electronic form to the ALJ (jet@cpuc.ca.gov) and those parties who have provided an e-mail address to the Process Office. This stipulation does not vacate the Commissioner's rules regarding filing of paper copies, Rule 2.5; the need to serve paper copies on any party without an electronic mail address; and the need to serve paper copies of any document that cannot be electronically distributed. Paper copies of pleadings and testimony that can be electronically distributed do not have to be sent directly to the ALJ.

Therefore, **IT IS RULED** that:

1. Case (C.) 03-09-001 and Application 03-12-024 are consolidated using C.03-09-001 as the case number.
2. The parties, scope of the proceeding, specific issues to be addressed, and service list are set forth in paragraphs 1, 5, 6, and 9, above.
3. Administrative Law Judge (ALJ) John E. Thorson is the principal hearing officer.
4. The Commission's preliminary categorization of this proceeding as ratesetting, in Resolution ALJ 176-3126 (January 8, 2004), is confirmed. An evidentiary hearing is required.
5. The *ex parte* prohibition of Pub. Util. Code § 1701.3(c) applies to this proceeding.
6. The schedule for the proceeding is set forth in paragraph 7.

7. Discovery will be conducted and discovery disputes will be resolved pursuant to paragraph 8.

8. Water service to the Casmalia Community Services District will not be discontinued during the pendency of this proceeding except pursuant to an ALJ ruling or Commission order.

9. Pursuant to The Casmite Corporation's agreement, existing rates for water service to the Casmalia Community Services District will not be increased during the pendency of this proceeding except pursuant to an ALJ ruling or Commission order.

10. Except for filings with the Docket Office, the parties shall serve pleadings and other documents, where practicable, by e-mail on one another and on the assigned ALJ.

11. The time period for filing a notice of intent to claim intervenor compensation commenced on February 17, 2004.

Dated March 3, 2004, at San Francisco, California.

/s/ GEOFFREY F. BROWN
Geoffrey F. Brown
Assigned Commissioner

/s/ JOHN E. THORSON
John E. Thorson
Administrative Law Judge

ATTACHMENT: SERVICE LIST

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(END OF ATTACHMENT)

CERTIFICATE OF SERVICE

I certify that I have by mail, and by electronic mail to the parties to which an electronic mail address has been provided, this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner and Administrative Law Judge on all parties of record in this proceeding or their attorneys of record.

Dated March 3, 2004, at San Francisco, California.

/s/ KE HUANG

Ke Huang

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to ensure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.